Public Notice

US Army Corps of Engineers
Fort Worth District

Applicant: DCO Addison at Brookhaven L.P. and DCO Greenhaven L.P.

Permit Application No.: SWF-2007-00583

Date: December 2, 2008

The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you would participate in this process.

Regulatory Program

Since its early history, the U.S. Army Corps of Engineers has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the U.S. Army Corps of Engineers Regulatory Program.

Section 10

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States.* The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

Section 404

The U.S. Army Corps of Engineers is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the *discharge of dredged and fill material into all waters of the United States, including wetlands.* The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

Contact

Name: Mr. Standridge Walker

Phone Number: (817) 886-1740

JOINT PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT

AND

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SUBJECT: Application for a Department of the Army Permit under Section 404 of the Clean Water Act (CWA) and for water quality certification under Section 401 of the CWA to discharge dredged and fill material into waters of the United States associated with the construction of The Vitruvian Park Development, an approximately 136-acre residential, retail, and commercial development located approximately 1 mile north of the intersection of Interstate-635 (I-635) and Marsh Lane in the City of Addison, Dallas County, Texas.

APPLICANT: Mark Culwell
DCO Addison at Brookhaven LP &
DCO Greenhaven LP
Three Lincoln Centre
5430 LBJ Freeway, Suite 1250
Dallas, Texas, 75240

APPLICATION NUMBER: SWF-2007-00583

DATE ISSUED:

LOCATION: The proposed project would be located on an approximately 136-acre tract of previously developed land located approximately 1 mile north of the intersection of I-635 and Marsh Lane in the City of Addison, Dallas County, Texas. The project site is bound by Spring Valley Road to the north, a multi-family residential community to the east, Brookhaven College to the south, and Marsh Lane to the west (**Sheet 1 of 12**). The proposed project would be located approximately at UTM coordinates 700848 East and 3646312 North (Zone 14) on the Addison 7.5-minute USGS quadrangle map in the USGS Hydrologic Unit 12030103 (**Sheet 2 of 12**).

OTHER AGENCY AUTHORIZATIONS: State Water Quality Certification

PROJECT DESCRIPTION: The proposed project would consist of a multi-use development of commercial and retail as well as multi-family residential lots. The multi-use development would also include the construction of roadways and utilities. The purpose of the proposed project would be to provide a needed multi-use development in a redeveloping area of Addison, Texas. The project is approximately 136 acres in size.

The only water of the U.S. on the site is the perennial stream Farmers Branch. A total of 1,838 linear feet (1.3-acres) of this stream are located on the site. Farmers Branch enters the site near

the center of the eastern boundary and flows east and south across the southeastern portion of the site and exits the property near the center of the southern boundary (**Sheet 3 of 12**).

Work within waters of the U.S. associated with the proposed project includes the transformation of Farmers Branch from an urban stream with eroded banks and very little riparian habitat into a cultural amenity for the City of Addison and the newly constructed development with a functioning riparian zone (**Sheet 4 of 12**). Currently, the on-site stream section includes approximately 1,838 linear feet of waters of the U.S. Manicured lawn abuts the majority of the stream and approximately 300 linear feet of the stream has concrete bed and banks. Another approximately 300 linear feet of stream has trees along both banks but very little herbaceous cover.

The concrete bed and banks that are currently located in the eastern portion of the stream would be removed and the bed would be restored to a natural substrate (**Sheet 5 of 12**). The banks would consist of a natural milsap stone vertical wall (**Sheet 6 of 12**) that would line the majority of the length of stream flowing through the project area.

A portion of the stream (approximately 300 linear feet) would be realigned to make room for the water control structure and the road crossing (**Sheets 7, 8, and 9 of 12**). The stream crossing would be a bridge that spans the stream channel so no additional fill would be needed in this area. The water control structure would be a concrete weir with natural Millsap stone facing that would be approximately 2 feet above the upstream water surface elevation and 3 to 4 feet above the downstream water surface elevation and would be constructed approximately 10 feet downstream of the road crossing. Approximately 800 linear feet of stream between the currently concreted section and the bridge would be over-excavated to widen this portion of the stream (**Sheet 10 of 12**). The widening of the stream in this area is needed to improve the hydraulic character of the stream, reclaim floodplain downstream of this area, and reduce stream velocities to non-erosive rates. In addition, this area would become an amenity for the development.

A non-jurisdictional, off-channel pond would be constructed above the ordinary high water mark in this area to the north of the stream channel. The pond would have a natural bed and would have vertical, natural Millsap stone banks. The widening of the stream and the construction of the off-channel pond in this area would result in the creation of an additional 2.13 acres of aquatic areas. Four islands would be constructed in the widened area to create wildlife habitat and provide a visual focal point for residents and visitors.

The islands would be created before the soil between the existing stream channel and the widened area is breached. The banks of the stream in this area and the banks of the islands would be a natural Millsap stone vertical wall.

The stream section below the water control structure would remain natural bed and banks; however, some bank stabilization activities would be required (**Sheet 11 of 12**). Some of the stabilization work would require fill below the ordinary high water mark. A summary of the impacts to jurisdictional waters is provided in **Table 1**.

All bridges constructed across the stream would span Farmers Branch and would not require

additional filling in waters of the U.S.

To provide the water for the off-channel pond, a recirculation system would be constructed to pump water from the downstream property boundary into the off-channel pond so that water is continuously flowing out of the pond and into the stream. Water would be siphoned from an area near the downstream property boundary and pumped up to the off-channel pond, allowing water to flow out of the pond, into the widened stream, and over the water control structure. This system would allow for the constant flow of water along the entire stream reach and would also create an aesthetically pleasing feature for the development.

Impacts resulting from the proposed alternative would equal approximately 1,200 linear feet of perennial stream, for a total of 0.25 acres of impacts to waters of the U.S. A summary of impacts is provided below in **Table 1**.

Table 1. Summary of Impact to Waters of the U.S.

Name of Impacted Jurisdictional Water	Type of Jurisdictional Water	Type of Impact	Length (feet)	Area (acres)
Farmers Branch	Perennial Stream	Stream realignment including road crossing and water control structure.	300	0.21
Farmers Branch	Perennial Stream	Fill along bank edges for bank stabilization	900	0.04
Total impact to perennial stream			**1,200**	**0.25**
Total impacts to waters of the U.S.			**--**	**0.25**

Alternatives Analysis

The applicant considered four alternatives to meet the purposes of the proposed project.

Alternative 1 - Proposed Alternative

The proposed alternative is to construct the project as described herein and mitigate on site for the unavoidable impacts to waters of the U.S. This alternative is preferred because, although it creates some impacts to on-site jurisdictional waters, it creates a site that can be economically developed; would provide the area with needed retail, entertainment, and residential properties; and provide the needed park area. Furthermore, this alternative includes removal of the concrete liner from 300 linear feet of channel and leaves a functioning aquatic ecosystem in place at the site. The proposed project would result in an ecosystem that would function better than the existing system.

Alternative 2 - Develop Property Without Filling and Realigning Waters of the U.S. – No Action

Developing the property without impacting any of the waters of the U.S. was rejected because this development scenario did not create the visual amenity the City of Addison and the Developer was looking for in this development. In addition, developing the property without realigning the stream would not allow the property to be developed in an economically viable way.

Alternative 3 - Excavate Entire Channel to Produce One Large Pond

Excavating the entire channel to produce one large body of water was rejected as it was deemed to create too great an impact to the environment. The lower, on-site portion of Farmers Branch is lined with large trees and if this area was inundated or excavated, the impacts to these trees would be too extensive.

Alternative 4 - Develop Property as Proposed but With Natural Banks

Developing the property as proposed but with a natural edge along the stream was rejected because this development scenario would create maintenance problems and because it was inconsistent with the programmatic requirements of the city and the developer to create the visual amenity they were looking for. A thick growth of vegetation along the natural banks would be necessary to prevent erosion of the banks. The developer felt that this vegetation would trap debris and trash when waters rose and receded and its removal would be too burdensome.

Avoidance and Mitigation

The proposed project seeks to avoid and minimize impacts to on-site and off-site ecological receptors. Although approximately 300 linear feet of the stream channel would be realigned, the majority of the stream channel (1,538 linear feet) would be left in place. Also, approximately 300 linear feet of stream would remain natural bed and bank. The remainder of the stream length would remain natural bed with natural Millsap stone banks.

Impacts would be minimized by completing construction as quickly and efficiently as possible. On-site impacts would be minimized by limiting the disturbance to only the areas necessary to provide for an economically viable project and to provide the needed bank stabilization and amenities. Due to the location of Farmers Branch relative to the project site, the realignment of a portion of the stream is necessary to provide development space on the northern portion of the site and to allow for the required road crossing. The remainder of the stream channel would be left in place and only the banks of a portion of the stream would be armored, leaving the banks in some areas and the bed along the entire stream reach to remain in its natural condition.

Further impact minimization would be accomplished by constructing the bridges to span the stream, thereby eliminating the need for construction in the channel at those locations.

Off-site impacts would be minimized by adhering to a Storm Water Pollution Prevention Plan (SWPPP) developed for the site. The SWPPP would include best management practices to control erosion and sediment transport off the site.

Mitigation Area

Compensation for impacts to jurisdictional waters from the proposed project would be wholly accomplished by on-site mitigation. The portion of stream that is currently encased in concrete would be rehabilitated to have a natural bed substrate. This would allow for the development of a functioning benthic community to help stabilize the food web in this portion of Farmers Branch and is expected to more than compensate for the impacts created by the construction of the Millsap stone walls for the banks in this area.

The excavated area between the rehabilitated section of stream and the bridge would create approximately 2.13 acres of additional waters. This area would have a natural substrate bottom and would provide habitat for area aquatic and terrestrial wildlife.

The islands and the areas along the stream bank would be planted with native, water tolerant vegetation to provide riparian habitat in these areas (**Sheet 12 of 12**). The design of the project would be such that the islands and banks would be flooded periodically (several times a year) to provide these areas with the water and nutrients required to develop a functioning riparian ecosystem. The pre-project functions of the riparian area on the stream banks are expected to be enhanced by the riparian mitigation area. The establishment of the riparian habitat along the banks of Farmers Branch and the newly-created islands would also compensate for the Millsap stone walls along the banks of a portion of the stream and around the perimeter of the constructed islands.

Approximately 300 linear feet of perennial stream would be created in the area where the stream realignment would occur. Although the banks would be stone, the bed would be natural substrate and would continue to provide habitat for benthic organisms. Above the banks, water-tolerant trees, shrubs, and herbaceous plants would be planted to establish a riparian ecosystem of higher quality than currently exists.

The area below the realigned stream section is currently eroded due to uncontrolled flows with trees along the banks but little herbaceous cover. This area is proposed to be restored using native woody and herbaceous species that would develop into a fully functioning riparian area that would provide excellent habitat for wildlife while preventing erosion.

A summary of the mitigation proposed for this project is included in **Table 2**.

Currently, the proposed mitigation area is manicured lawn and dominated by St. Augustine grass (*Stenotaphrum secundatum*). Although some of this area would remain manicured, plant species that have a wide range of flood and drought tolerance would be utilized to ensure that a self-sustaining euryhydric community is established to provide ideal riparian habitat for wildlife. Being located in the floodplain, the mitigation area would remain dry for a portion of the year but would be flooded during some rain events, and occasionally saturated for long periods, necessitating the use of tolerant plants.

Table 2. Summary of Mitigation Activities

Mitigation Activity	Length of Waters Benefited (feet)	Area of Waters Benefited (acres)	Mitigation Area (acres)
Perennial Stream Created	300	0.21	**0.21**
Concrete-lined Stream Channel Rehabilitated	300	0.20	**0.20**
Riparian Area Created	1,868	3.43[a]	**7.57**
Total Mitigation	**1,868**	**3.84**	**7.98**

a. This area includes the 2.13 acres of new jurisdictional waters created in the over-excavated area.

The area proposed for the mitigation area is wholly owned by the applicant and has no liens or other encumbrances attached to it.

PUBLIC INTEREST REVIEW FACTORS: This application would be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation would also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. The decision whether to issue a permit would be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision would reflect the national concerns for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal would be considered, including its cumulative effects. Among the factors addressed are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The USACE is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received would be considered by the USACE in determining whether to issue; issue with modifications or conditions; or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

STATE WATER QUALITY CERTIFICATION: This project incorporates the requirements necessary to comply with the Texas Commission on Environmental Quality's (TCEQ) Tier I project criteria. Tier I projects are those that result in a direct impact of three acres or less of waters of the State or 1,500 linear feet of streams (or a combination of the two is below the threshold) for which the applicant has incorporated best management practices (BMPs) and other provisions designed to safeguard water quality. The USACE has received a completed checklist and signed statement fulfilling Tier I criteria for the project. Accordingly, a request for 401 certification is not necessary and there will be no additional TCEQ review.

ENDANGERED AND THREATENED SPECIES: The applicant has reviewed the U.S. Fish and Wildlife Service's latest published version of endangered and threatened species to determine if any may occur in the project area. The proposed project would be located in a county where the black-capped vireo (*Vireo atricapilla*), golden-cheeked warbler (*Dendroica chrysoparia*), interior least tern (*Sterna antillarum athalassos)*, piping plover (*Charadrius melodus)*, and whooping crane *(Grus americana)* are known to occur or may occur as migrants. The piping plover is a threatened species and the black-capped vireo, golden-cheeked warbler, interior least tern, and whooping crane are endangered species. The applicant's initial review indicates that the proposed work would have no effect on federally-listed endangered or threatened species.

NATIONAL REGISTER OF HISTORIC PLACES: The area of the proposed developed has not been surveyed for the presence of historic and prehistoric cultural resources. The area has been substantially modified by previous development. A letter was sent to the Texas Historical Commission requesting additional information on historic or prehistoric sites associated with the property. The THC responded with a determination of 'no survey needed…' The Corps concurs with this comment. Construction may yet uncover buried sites without surface expression. If previously unidentified sites are encountered, they will be assessed for eligibility to the National Register of Historic Places and the need for additional treatment prior to impacts.

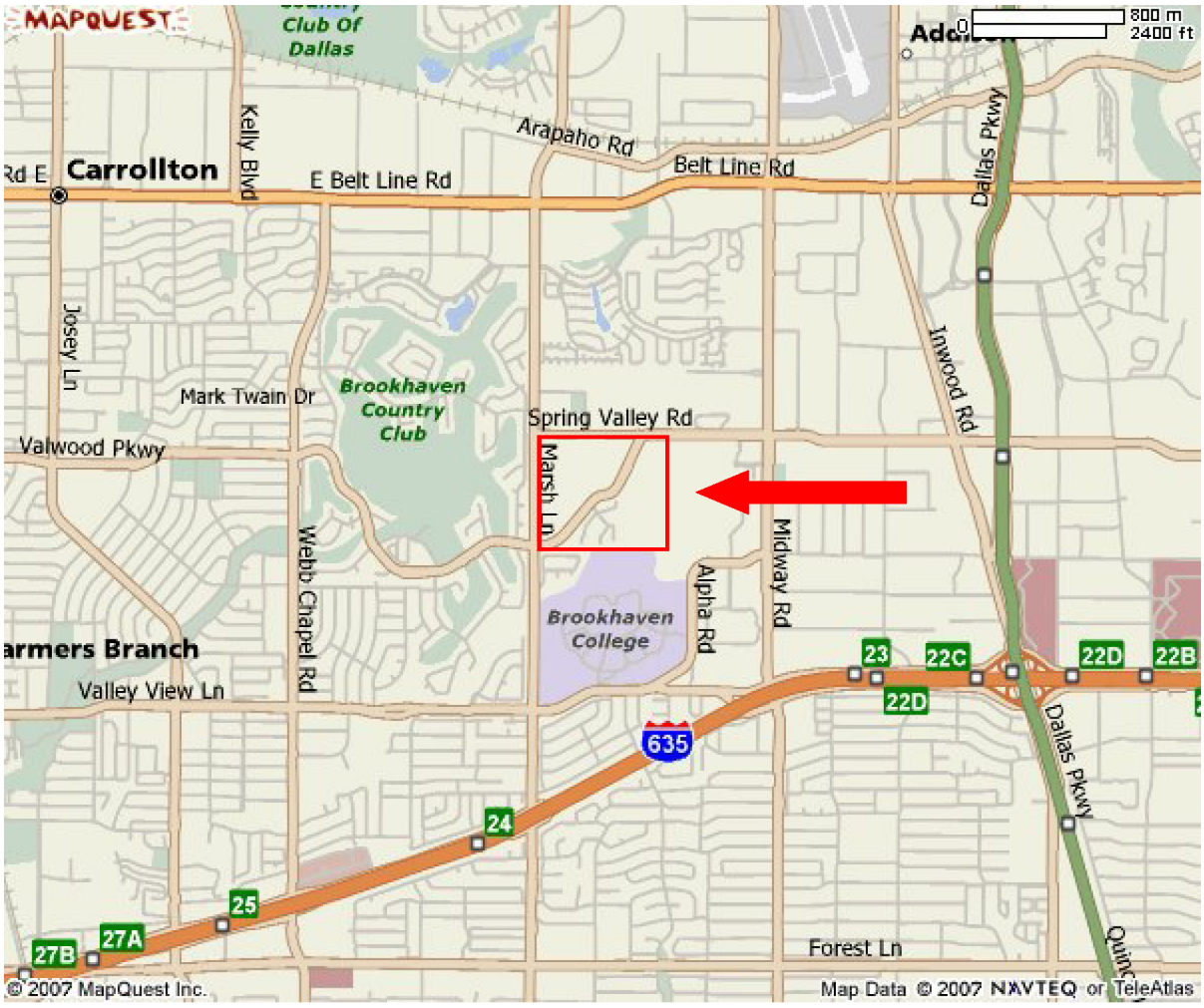
FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review all proposed development to determine if a floodplain development permit is required and maintain records of such review.

SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing facts upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

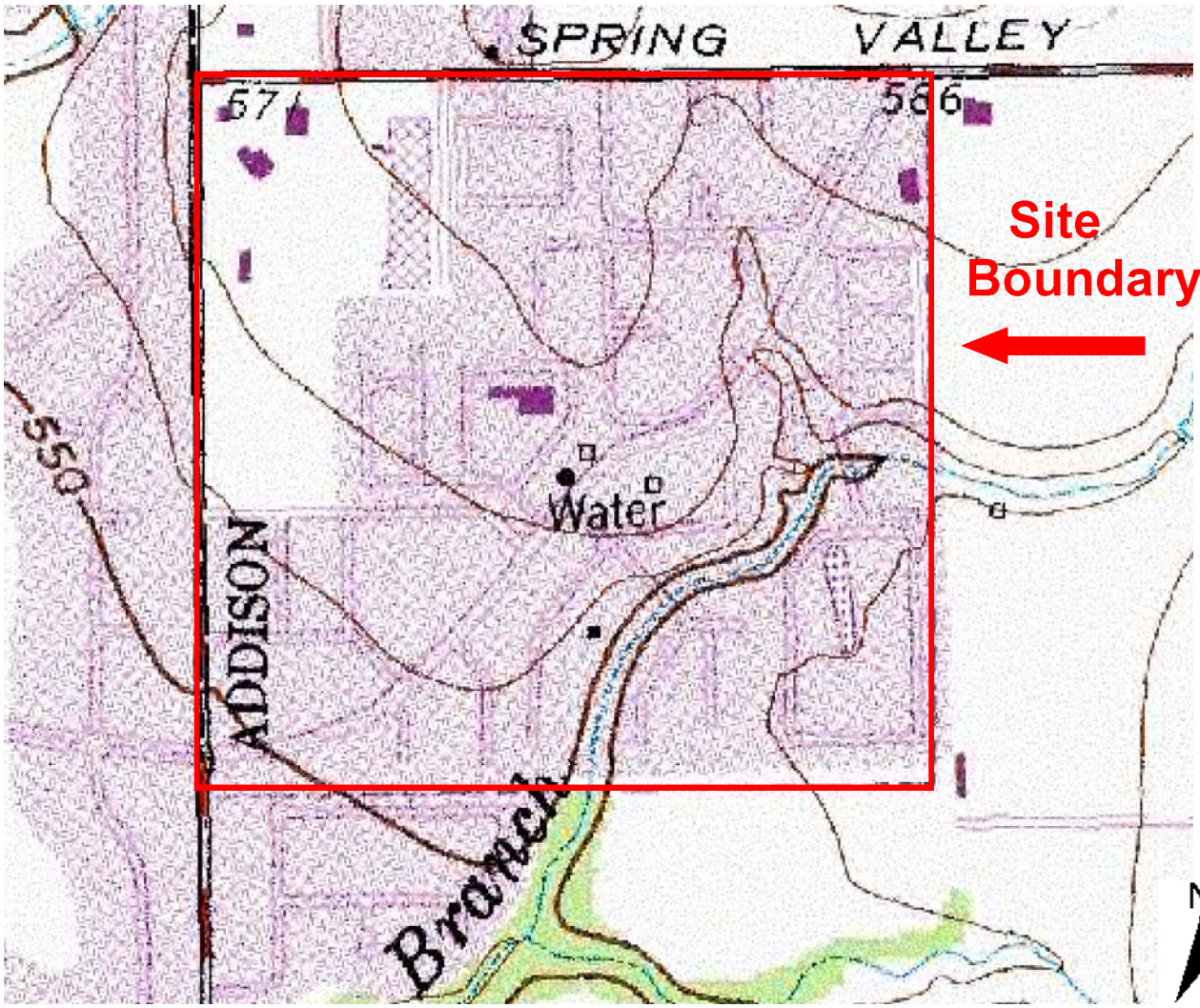
PUBLIC HEARING: Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer would determine whether the issues raised are substantial and should be considered in his permit decision. If a public hearing is warranted, all known interested persons would be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before January 2, 2008, which is the close of the comment period. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. If no comments are received by that date, it would be considered that there are no objections. Comments and requests for additional information should be submitted to Mr. Standridge Walker; Regulatory Branch, CESWF-PER-R; U. S. Army Corps of Engineers; Post Office Box 17300; Fort Worth, Texas 76102-0300. You may visit the Regulatory Branch in Room 3A37 of the Federal Building at 819 Taylor Street in Fort Worth between 8:00 A.M. and 3:30 P.M., Monday through Friday. Telephone inquiries should be directed to (817) 886-1731. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available.

DISTRICT ENGINEER
FORT WORTH DISTRICT
CORPS OF ENGINEERS



Site Vicinity Map for Vitruvian Park



USGS Topographic Map (Dallas County Mosaic, Texas, NRCS 2007) for the Vitruvian Park Redevelopment Site, Addison, Texas

Aerial View the Vitruvian Park Redevelopment Site, Addison, Texas

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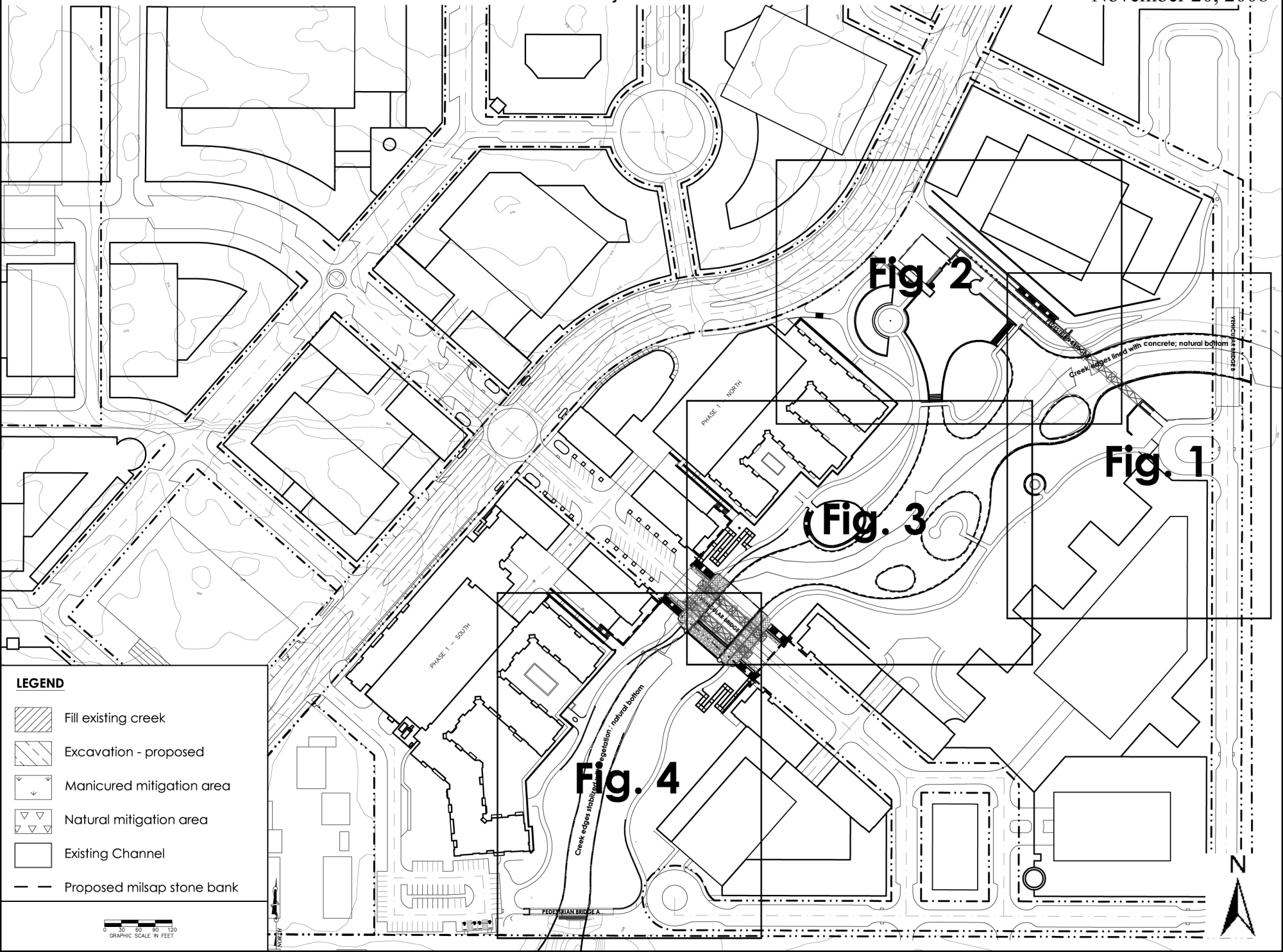
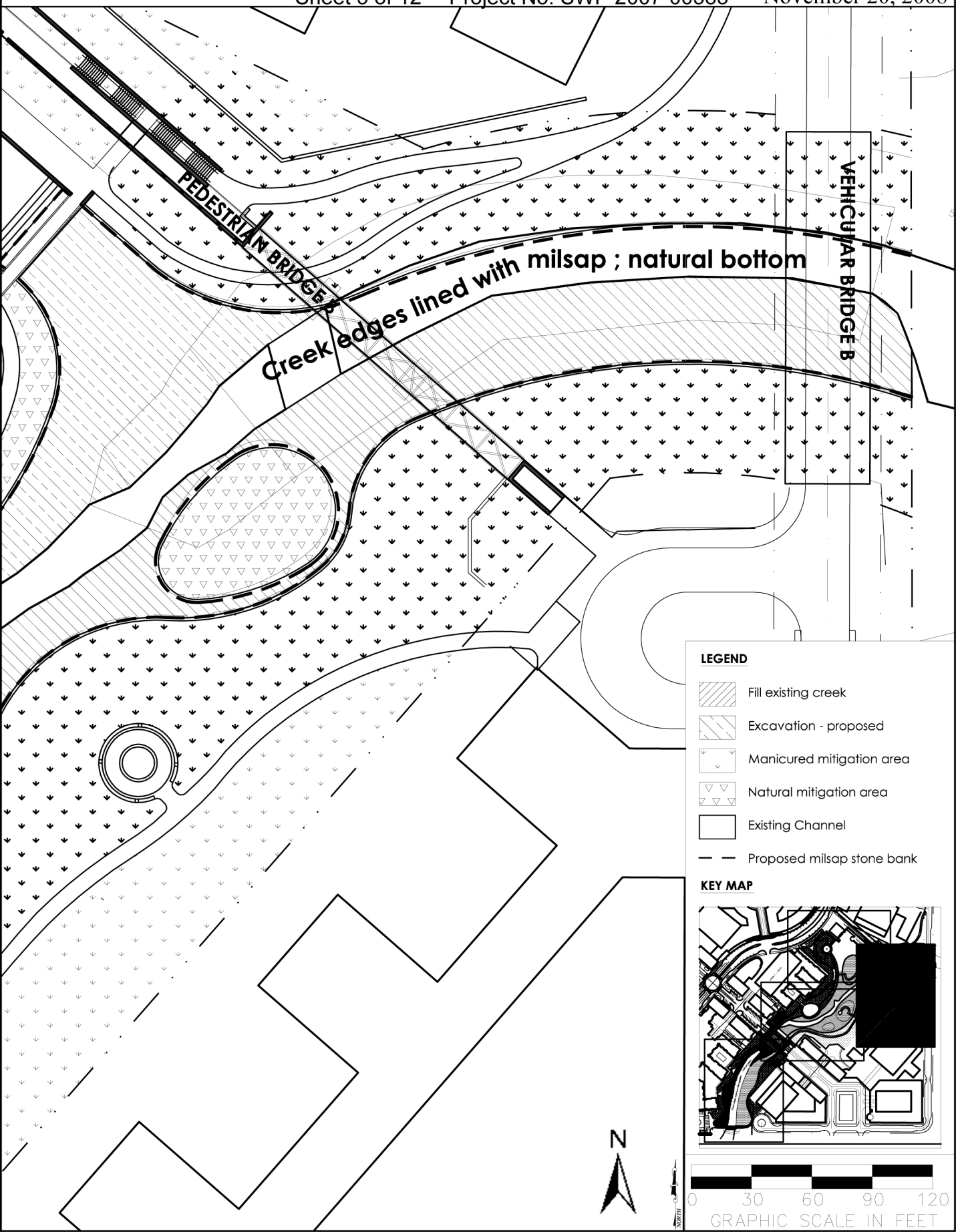
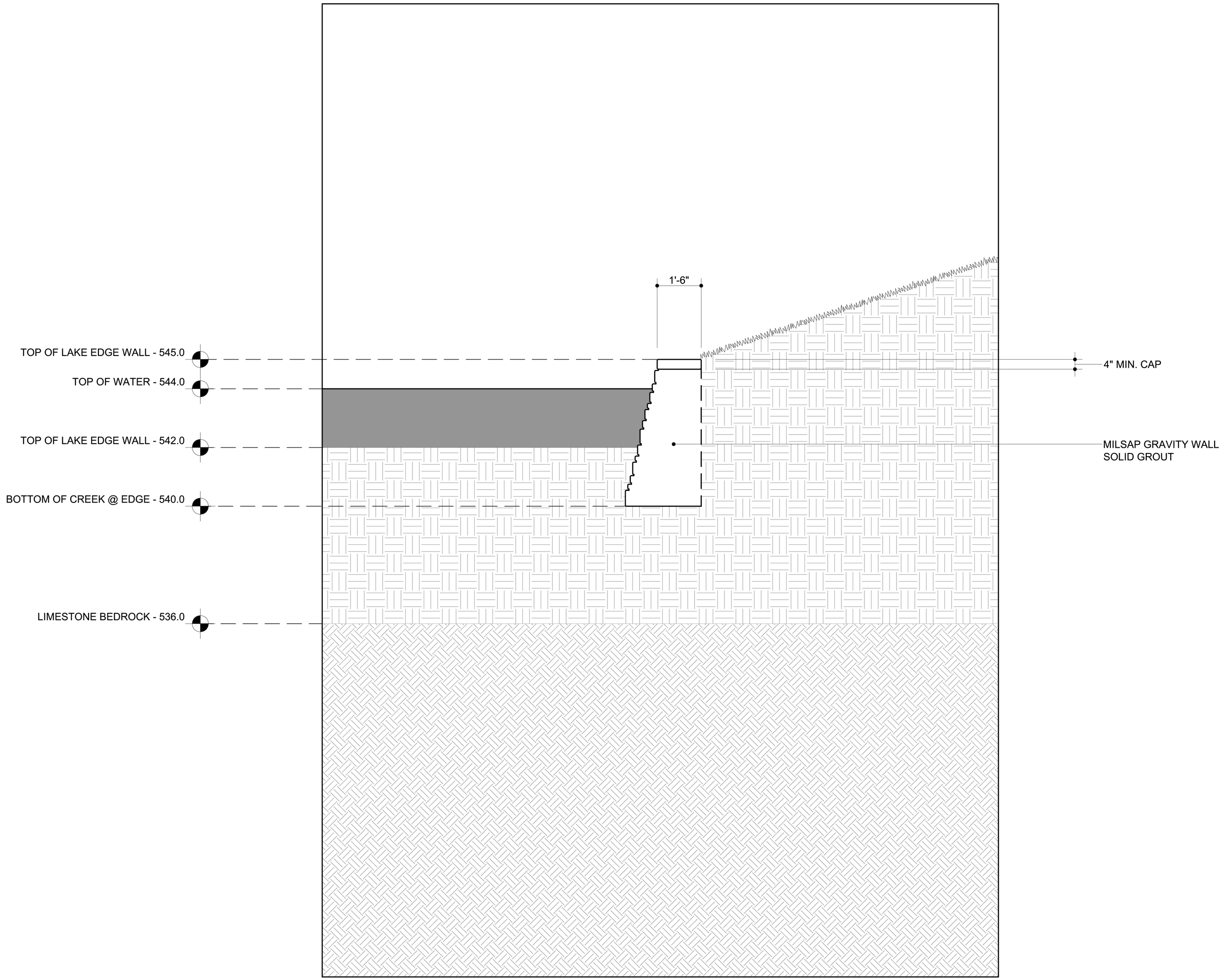


Fig. 2
Fig. 1
Fig. 3
Fig. 4
PHASE 1 – NORTH
PHASE 1 – SOUTH
PEDESTRIAN BRIDGE A
VEHICULAR BRIDGE B
Creek edges lined with concrete; natural bottom
Creek edges stabilized w/ vegetation - natural bottom
LEGEND
Fill existing creek
Excavation - proposed
Manicured mitigation area
Natural mitigation area
Existing Channel
Proposed milsap stone bank
0 30 60 90 120
GRAPHIC SCALE IN FEET
N


PEDESTRIAN BRIDGE B
VEHICULAR BRIDGE B
Creek edges lined with milsap ; natural bottom
LEGEND
Fill existing creek
Excavation - proposed
Manicured mitigation area
Natural mitigation area
Existing Channel
Proposed milsap stone bank
KEY MAP
N
0 30 60 90 120
GRAPHIC SCALE IN FEET



1
Sketch

Lake Edge Wall - Cross Section

0' 1' 2' 4'
Scale 1/2" = 1'-0"

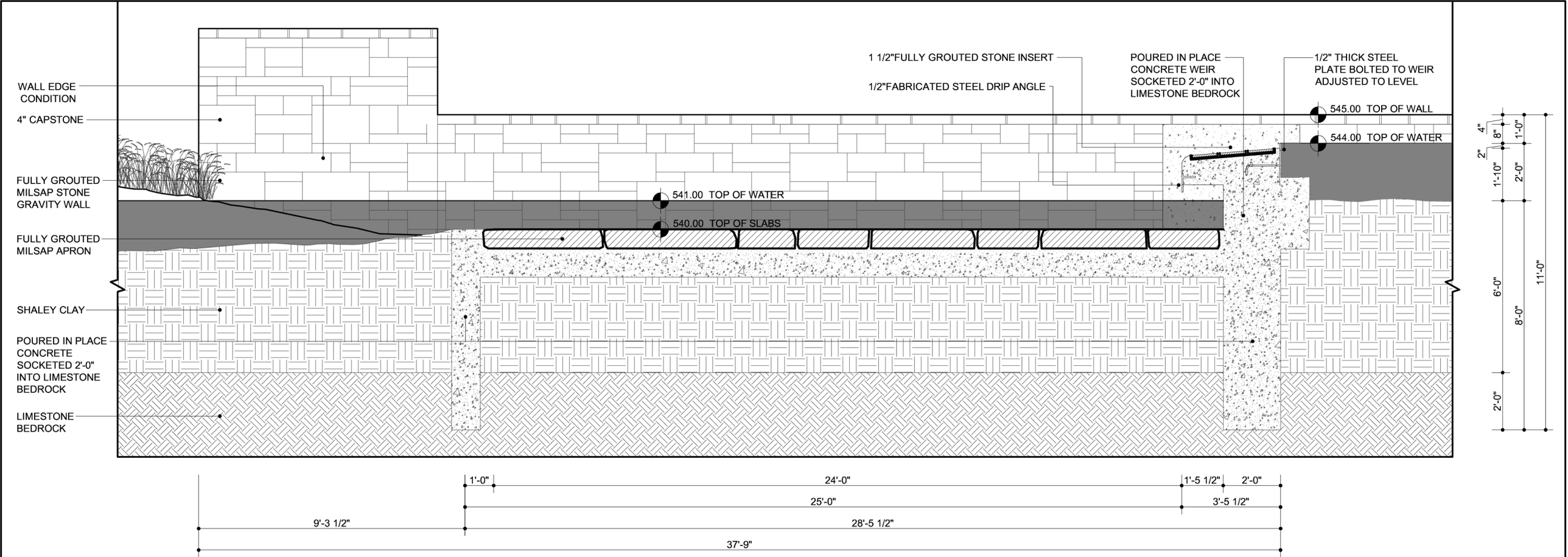
KEVIN SLOAN STUDIO

Sheet 6 of 12
Project No. SWF-2007-00583

VITRUVIAN PARK

Town of Addison
Addison, Texas
November 20, 2008

Lake Edge Wall



1
L 7.20

Central Bridge Weir - Cross Section

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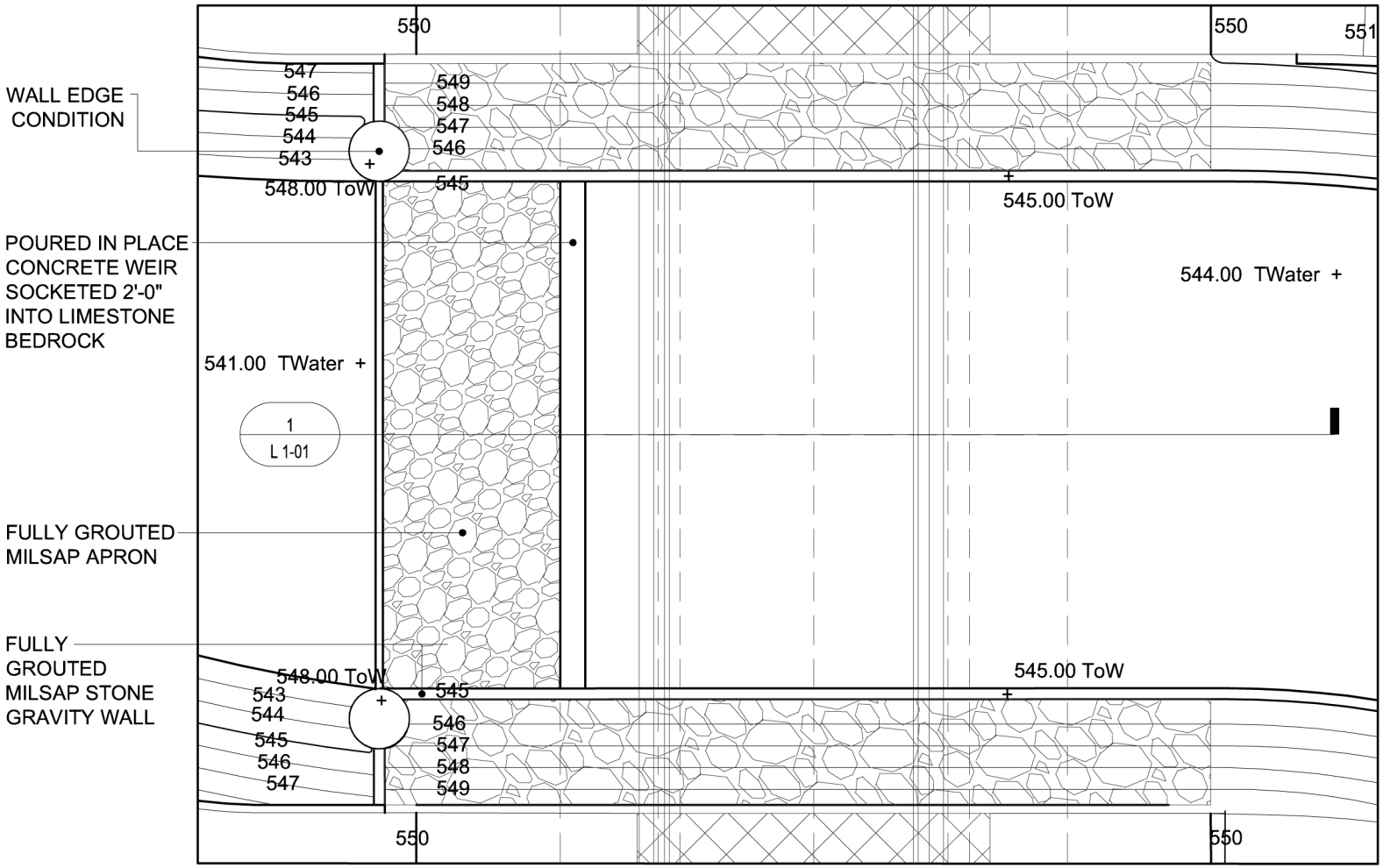
November 20, 2008

Project No. SWF-2007-00583

0' 1' 2' 4'
Scale 1/2" = 1'-0"



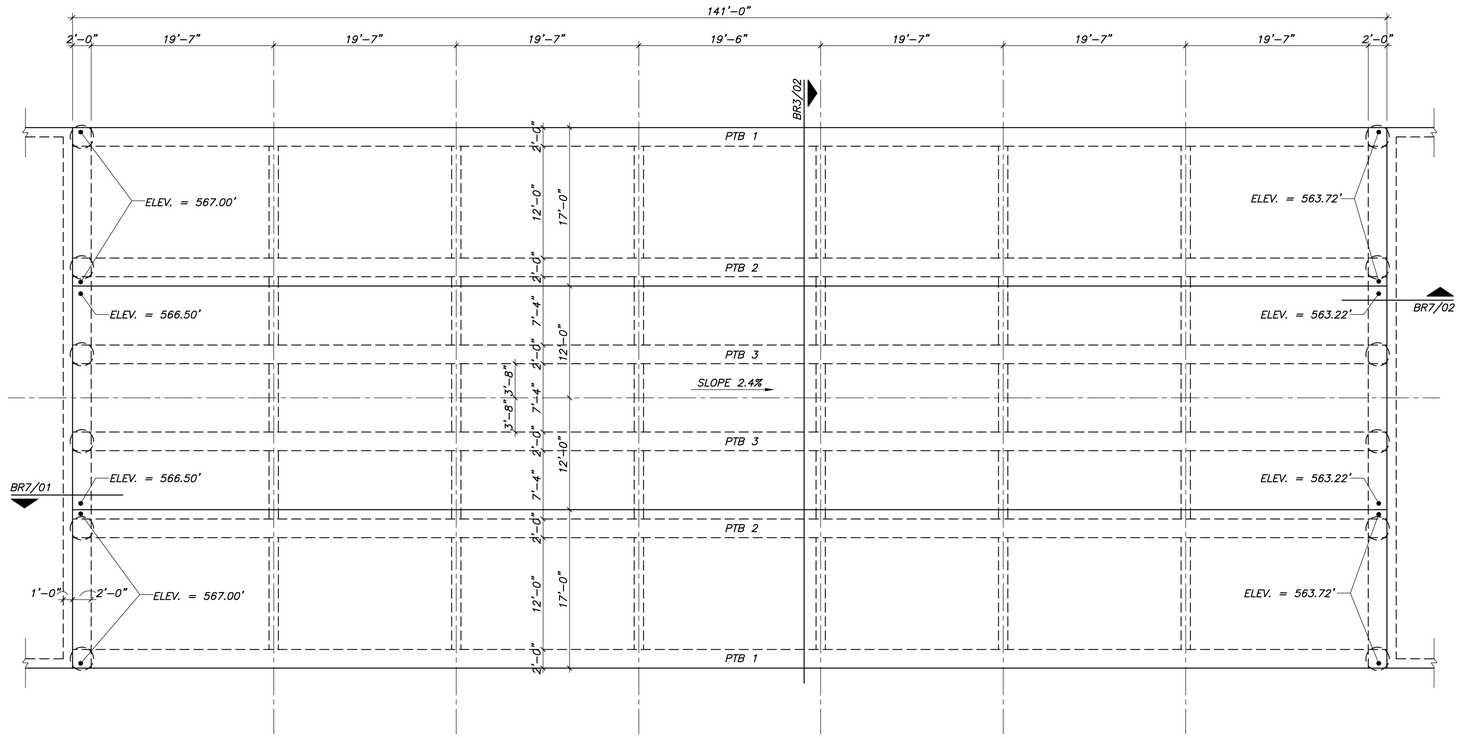
2
L 7.20

Central Bridge Weir - Plan

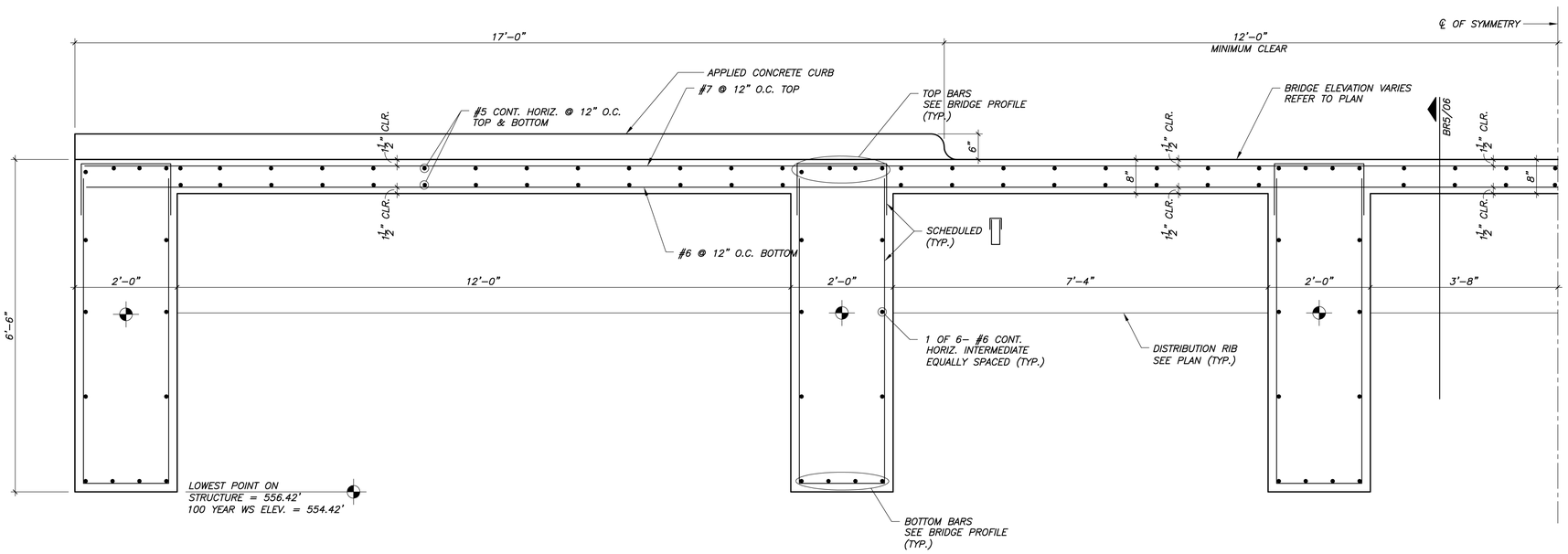
Sheet 8 of 12 Project No. SWF-2007-00583

0' 8' 16' 32'
Scale 1/16" = 1'-0"

November 20, 2008



01 PLAN - TRAFFIC BRIDGE "A"
3/4"=1'-0"



02 SECTION - TRAFFIC BRIDGE "A"
3/4"=1'-0"

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Project No. SWF-2007-00583
Cross Section and Plan View of Vehicular Bridge

STATE OF TEXAS
VICTOR LISSIAK, JR
30565
REGISTERED
PROFESSIONAL ENGINEER

TRAFFIC BRIDGE "A"					
BROKHAVEN BRIDGES					
ADDISON, TEXAS					
FOR UDR					
VIEWTECH, INC. 4205 BELTWAY DR. ADDISON, TX. 75001 (972) 661-8187 FAX (972) 661-8172					
DESIGN	DRAWN	DATE	SCALE	JOB #	SHEET
VL	CL	12/11/07	not to scale	2007.144	BR3

N

November 20, 2008

LEGEND

- Fill existing creek
- Excavation - proposed
- Manicured mitigation area
- Natural mitigation area
- Existing Channel
- Proposed milsap stone bank

KEY MAP

PEDESTRIAN BRIDGE

Creek edges

564

562

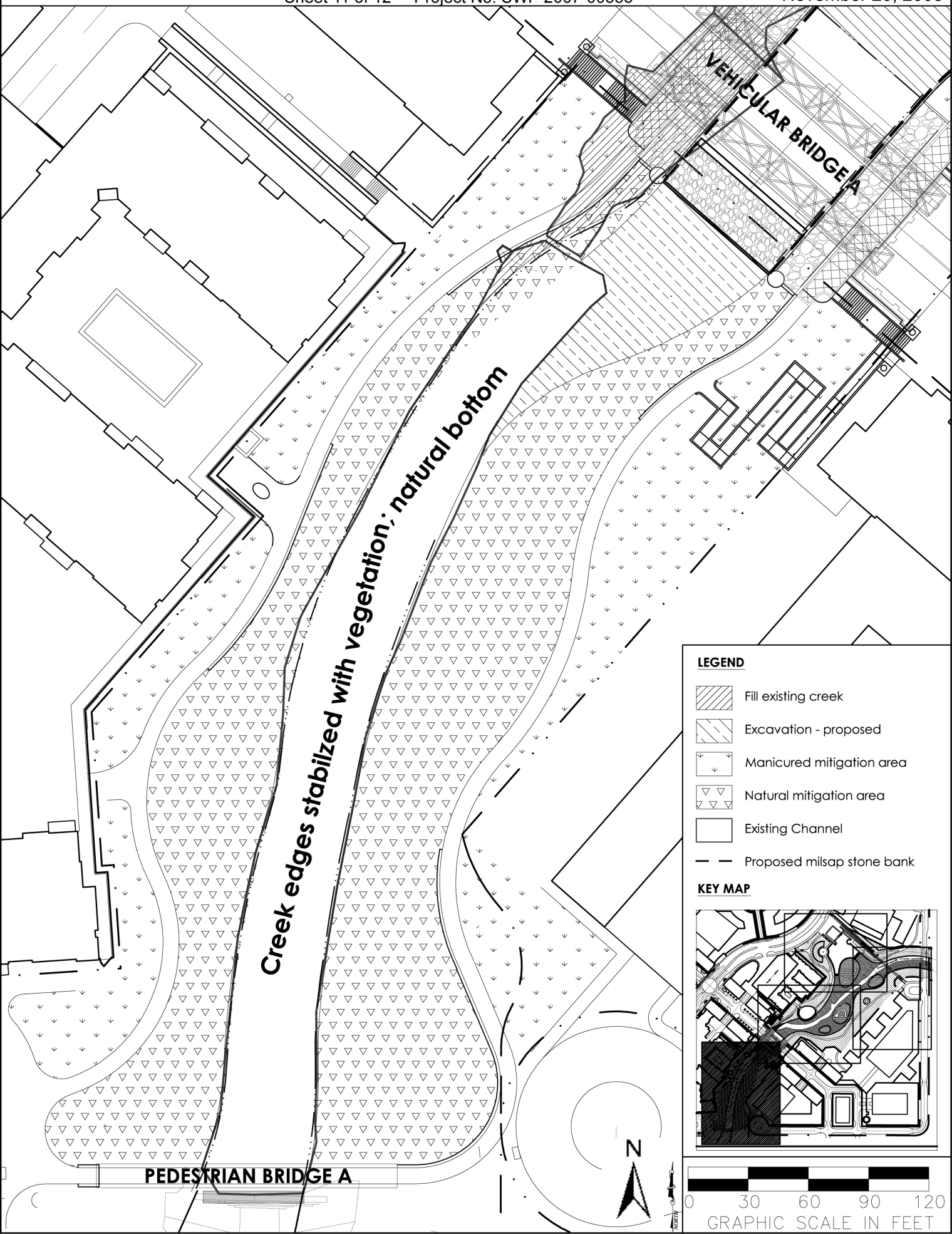
565

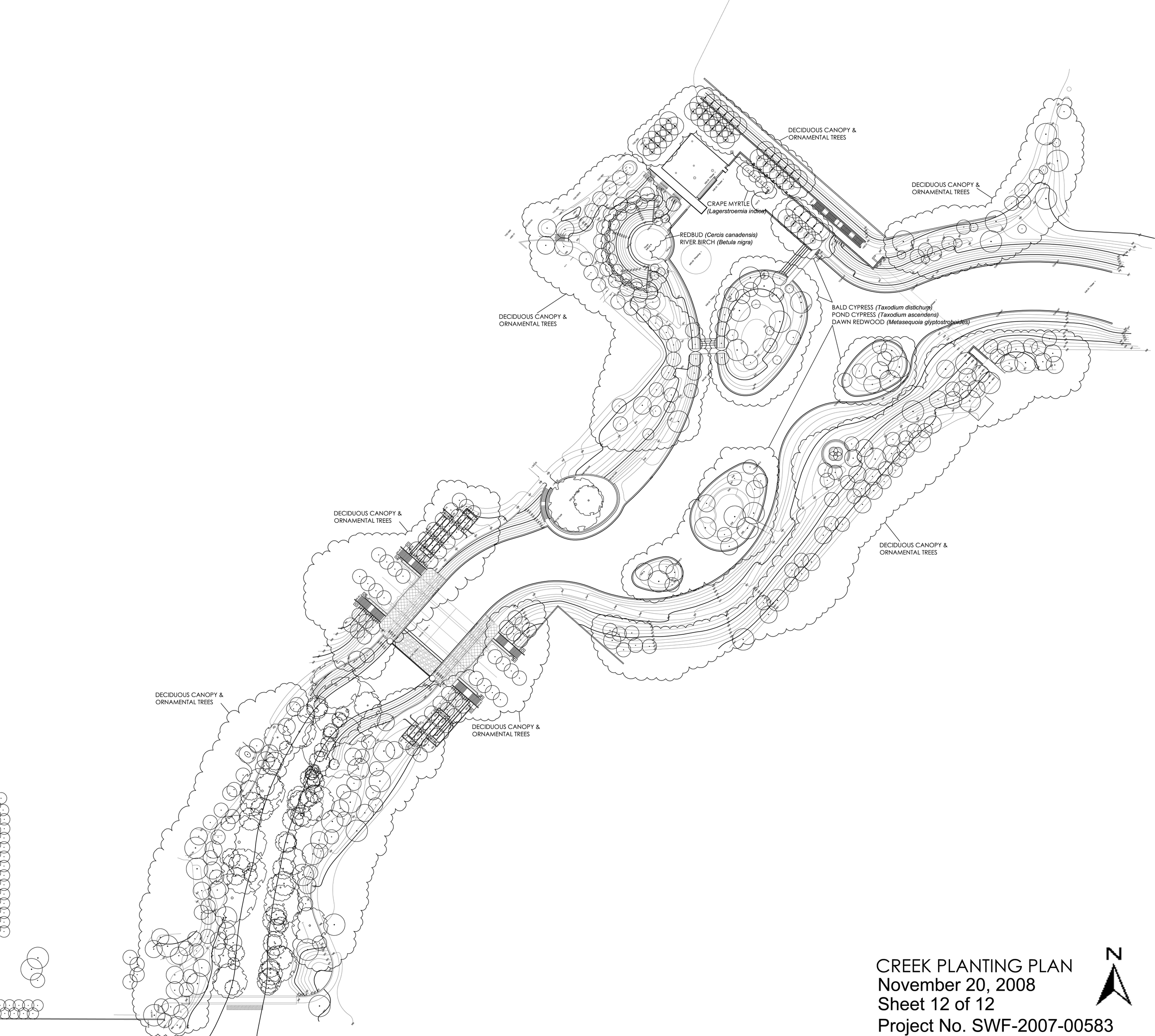
N

NORTH

0 30 60 90 120

GRAPHIC SCALE IN FEET


VEHICULAR BRIDGE A
Creek edges stabilzed with vegetation; natural bottom
PEDESTRIAN BRIDGE A
LEGEND
Fill existing creek
Excavation - proposed
Manicured mitigation area
Natural mitigation area
Existing Channel
Proposed milsap stone bank
KEY MAP
N
0 30 60 90 120
GRAPHIC SCALE IN FEET



CREEK PLANTING PLAN

November 20, 2008

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